

REMARKS

I. Introduction

Claims 12 and 14-33 are currently pending in the present application after cancellation of claim 13 and addition of claims 25-33. Claims 12 and 21 have been amended to recite the features previously recited in claim 13. In view of the following remarks, it is respectfully submitted that the pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 12 to 24 under 35 U.S.C. §102

Claims 12 to 24 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,327,522 (the “Kojima” reference). Applicants note that this rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102(e), a single prior art reference must identically disclose each and every claim element. See Lindeman Maschinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986). To the extent that the Examiner may be relying on the doctrine of inherent disclosure for the anticipation rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Claim 12 has been amended to recite the features previously recited in claim 13, i.e., amended claim 12 now recites, in relevant parts, “the at least one processing unit includes an arrangement for recognizing a course of a roadway from at least the optical signal, and for controlling the at least one signaling arrangement for producing the item of driver information as a function of the recognized course of the roadway; and the at least one processing unit includes an arrangement for recognizing at least one object, from at least the

optical signal, and for controlling the at least one signaling arrangement as a function of a position of the at least one recognized object in relation to the course of the roadway.”

With respect to the features previously recited in claim 13, the Examiner contends that col. 1, l. 45-67 of Kojima teach “controlling the at least one signaling arrangement as a function of a position of the at least one recognized object in relation to the course of the roadway.” (Office Action, p. 3). In this regard, the Examiner interprets the display (8, 28, 48) of Kojima as the “signaling arrangement.” However, the actual disclosure of the cited section of Kojima clearly does not suggest anything regarding controlling the display “as a function of a position of the at least one recognized object in relation to the course of the roadway”; instead, the cited section of col. 1, l. 45-67 merely indicates: a) “changing a display mode of the display in accordance with a detection result of the distance detection means,” i.e., “distance between the obstacle and the vehicle”; and b) the image display is controlled to “display only the obstacle with the shortest computed distance to the vehicle.” Accordingly, the control of the display of Kojima is based on the distance between the obstacle and the vehicle, but not in any way influenced by the “course of the roadway,” let alone controlled “as a function of a position of the at least one recognized object in relation to the course of the roadway.” To the extent the Examiner contends that “[c]apturing images ahead of the vehicle and extracting the obstacle information from the capture image for display to the user is viewed as recognizing the course of the roadway,” (Office Action, p. 3), even if one assumes for the sake of argument that this contention is correct (with which assumption Applicants disagree), merely recognizing the course of the roadway does not in any way suggest that the display of Kojima is controlled “as a function of a position of the at least one recognized object in relation to the course of the roadway.”

Independent of the above, to the extent the Examiner notes that “[w]hile there is no suggestion that obstacle must be on the roadway in the Kojima reference, . . . [e]ven if the obstacle is not on the road it would be in close enough proximity to the roadway to warrant the driver’s attention,” and therefore the Examiner “views this as recognizing the course of the roadway,” (Final Office Action, page 6), this contention is logically deficient. Given the admission that “there is no suggestion that obstacle must be on the roadway,” it simply doesn’t make sense that obstacles which are not on the road would define the course of the roadway.

In addition, to the extent the Examiner asserts that "[b]ecause the system must determine which obstacle (if more than one) is closest to the vehicle, Examiner contends that the driver information is provided as a function of the recognized course of the roadway," (Final Office Action pages 6, 7), this contention is also logically deficient. It is readily apparent to a casual observer that determining which object is closest to the vehicle has absolutely no relevance to recognition of the course of the roadway. For example, an object could be very close to a vehicle but outside the roadway. More fundamentally, a single obstacle that is in front of the vehicle (regardless of the distance) would not in any way suggest the course of the roadway.

For at least the foregoing reasons, claims 12 and 21, as well as their dependent claims 14-20 and 22-24, are allowable over the "Kojima" reference. Accordingly, removal of the rejections is respectfully requested.

New claims 25-33 have been added to more fully claim the present invention. Independent claims 25, 31 and 33 recite features substantially similar to the features recited in allowable claim 12, as well as additional limitations. Therefore, claims 25, 31 and 33, as well as their dependent claims 26-30 and 32, are in allowable condition.

III. CONCLUSION

Applicants respectfully submit that all pending claims of the present application are now in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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By: JONG LEE for Gerard Messina
Gerard A. Messina (Reg. No. 35,952)
KENYON & KENYON LLP
One Broadway
New York, NY 10004
(212) 425-7200

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